

UNITED STATES BANKRUPTCY COURT

Middle District of North Carolina
101 South Edgeworth Street
Greensboro, North Carolina 27401



Reid Wilcox
Clerk Of Court

Telephone (336) 358-4000
Facsimile (336) 358-4026

December 21, 2023

To: Bankruptcy Attorneys

From: U.S. Bankruptcy Court Clerk's Office - Middle District of North Carolina

Re: Proposed Changes to Local Rules

Proposed changes have been put forth for Local Rule 3011-1 and Local Rule 5005-4(4). A comment period shall run for 30 days from the date of this notice. Further announcement on the proposed changes shall be made after the conclusion of the 30 days and only after all comments are taken into consideration. Comments should be addressed to:

**U.S. Bankruptcy Court
Local Rules Comments
P.O. Box 26100
Greensboro, NC 27420-6100**

Or

NCMBml_LocalRules@ncmb.uscourts.gov

LOCAL RULE 3011-1

UNCLAIMED FUNDS

(a) **Definitions.**

For purposes of this rule:

- (1) “Applicant” is the party submitting the application for payment of unclaimed funds;
- (2) “Claimant” is the party entitled to payment of the unclaimed funds and the party to whom the funds will be distributed (the Applicant and Claimant may be the same). The Claimant may be the original payee entitled to the funds appearing in the records of the court or a successor to the original payee that is entitled to the funds as a result of assignment, purchase, merger, acquisition, succession, or other means;
- (3) “Proof of identity” includes documents such as an unredacted copy of a driver’s license, another state-issued identification card, or a United States passport that includes the individual’s current address.
- (4) “U.S. Attorney” is the United States Attorney for the Middle District of North Carolina;
- (5) “U.S. person” includes an individual who is a United States citizen or United States resident alien; a partnership, corporation, company, or association created or organized in the United States or under the laws of the United States; an estate (other than a foreign estate); or a domestic trust (as defined in 26 C.F.R. 301.7701-7); and

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(b) **Deposit of Unclaimed Funds into the United States Treasury.**

All unclaimed funds collected by the court will be deposited into the United States Treasury.

Deleted: (4) → “Owner of Record” is the original payee entitled to funds appearing in the records of the court; and

(5) → “Proof of identity” includes documents such as an unredacted copy of a driver’s license, another state-issued identification card, or a United States passport that includes the individual’s current address.

(c) **Procedure for Disbursing Unclaimed Funds.**

- (1) Application for Payment of Unclaimed Funds. The Applicant must submit a properly completed Form 1340, as may be revised and published on the court’s website, www.ncmb.uscourts.gov, to the clerk’s office in Greensboro at the following address: Attn: Finance Department, P.O. Box 26100, Greensboro, NC 27402-6100. The Applicant must also submit all supporting documentation and information as described in subsection (c)(2), a certificate of service as described in subsection (c)(3), and a proposed order in substantial conformance with the court’s standard order granting an application for payment of unclaimed funds, which can be found on the court’s website, www.ncmb.uscourts.gov. The application and supporting documentation and information should not be submitted through the court’s CM/ECF System.
- (2) Supporting Documentation and Information. In addition to Form 1340, the Claimant’s identity and right to the funds must be shown through supporting documentation and information. If there are joint Claimants, supporting documentation and information must be provided for both Claimants. Supporting documentation and information includes:
 - (A) Payee Documentation. The Claimant’s social security or tax identification number must be provided to the court on either:

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- (i) Completed AO-213P or Form W-9 signed by the Claimant, if the Claimant is a U.S. person; or
- (ii) Completed AO-215 and Form W-8 signed by the Claimant, if the Claimant is not a U.S. person.

A U.S. person who wishes to receive payment via electronic funds transfer must use AO-213P.

(B) Individual Claimant Documentation and Information. If the Claimant is a living individual, then the Applicant must provide:

- (i) proof of the Claimant's identity;
- (ii) the Claimant's notarized signature (incorporated into Form 1340);
- (iii) if the Claimant is the original payee entitled to the funds appearing in the records of the court, a brief statement explaining why the original check was not received or negotiated and proof of any name change since the funds were deposited with the court; and
- (iv) if the Claimant is a successor to the original payee, a brief statement explaining how the Claimant acquired the rights as holder of the claim and documentation sufficient to establish the chain of ownership of the claim.

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(C) Business or Government Entity Claimant Documentation and Information. If the Claimant is a business or government entity, then the Applicant must provide:

- (i) proof of identity of the authorized representative who signs Form 1340 for and on behalf of the business or government entity;
- (ii) a notarized statement of the signing representative's authority;
- (iii) if the Claimant is the original payee entitled to the funds appearing in the records of the court, a brief statement explaining why the original check was not received or negotiated and proof of any name change since the funds were deposited with the court; and
- (iv) if the Claimant is a successor to the original payee, (1) a notarized power of attorney signed by an authorized representative of the successor entity, if applicable; (2) a brief statement explaining how the Claimant acquired the rights as holder of the claim; and (3) documentation sufficient to establish the chain of ownership of the claim, including, if applicable, proof of sale of the entity, identification of prior and new owners of the entity, and a copy of the terms of any purchase agreement

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or stipulation by the prior and new owners as to the Claimant's right of ownership to the unclaimed funds.

(D) Estate Documentation and Information. If the Applicant is a representative for the estate of a deceased Claimant, then the Applicant must provide:

- (i) proof of identity of the estate representative who signs Form 1340;
- (ii) certified copies of probate documents or other documents authorizing the representative to act on behalf of the decedent or the decedent's estate in accordance with applicable state law; and
- (iii) documentation sufficient to establish the deceased Claimant's identity and entitlement to the funds.

(E) Claimant Representative Documentation and Information. If the Applicant is the Claimant's attorney or other representative not otherwise covered by subsection (c)(2)(D), then the Applicant must provide:

- (i) proof of identity of the Applicant who signs and submits Form 1340;
- (ii) a brief statement of the Applicant's authority to claim the funds on behalf of the Claimant;
- (iii) a notarized power of attorney signed by the Claimant (or the Claimant's authorized representative) on whose behalf the Applicant is acting; and
- (iv) documentation and information sufficient to establish the Claimant's identity and entitlement to the funds, as required by subsections (B) and (C).

Unless the court orders otherwise, if the Applicant is the Claimant's attorney, any disbursement of unclaimed funds will be issued in the name of the Claimant but will be mailed to the Applicant.

- (3) Service. The Applicant must serve a copy of Form 1340 and all supporting documentation and information on the U.S. Attorney. The Applicant must also serve a copy of Form 1340 on the bankruptcy administrator, the trustee (if any), the debtor, and the debtor's attorney (if any). If the Applicant is a successor to the original payee or a representative for the successor, the Applicant must further serve a copy of Form 1340 on the original payee and all other previous owner(s) of the claim at their current address or submit a statement explaining why the Applicant is not able to do so or why doing so is not necessary. A certificate reflecting proper service as outlined above must be submitted with the application. Failure to serve the papers in the manner prescribed may result in denial of the application without a hearing.

(d) Objections.

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Deleted: (D) → Successor Claimant Information – Individual. If the Claimant is an individual and is a successor to the Owner of Record

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(i) → their proof of identity;

(ii) → their notarized signature on Form 1340;

(iii) → documentation sufficient to establish the chain of ownership of the claim or the transfer of the claim from the Owner of Record to the Claimant;

(iv) → the full name and address of the Owner of Record; and

(v) → a brief statement of the facts by which the Claimant acquired the rights as successor in interest to the Owner of Record.

(E) → Successor Claimant Information – Business or Government Entity. If the Claimant is a business ... [1]

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Any objection to the application must be filed with the court and served within 21 days after the application is served on all parties listed in subsection (c)(3). If no timely objection is filed and served, the application and supporting documents may be considered by the court without a hearing.

(e) Fraud.

Any request for unclaimed funds presented to the court that appears to be based upon fraud will be referred to the U.S. Attorney for investigation and prosecution.

Current:

LOCAL RULE 5005-4(4)
ENTRY OF COURT ORDERS

Signature of Judge or Clerk.

~~An order, decree, opinion, judgment, or other paper docketed electronically by the clerk on the court's CM/ECF System that bears an electronic signature, stamp, or other representation of signature by a judge or the clerk has the same force and effect as if the judge or clerk had executed a wet ink signature on the paper.~~

Proposed:

LOCAL RULE 5005-4(4)
ENTRY OF COURT ORDERS

Signature of Judge or Clerk.

All orders, judgments, and decrees will be filed electronically by the court or court personnel in accordance with these rules, which will constitute entry on the docket kept by the clerk. Orders may be issued as "text-only" entries on the docket, without an attached document. Any order, judgment, or decree filed electronically has the same force and effect as if the judge had signed a paper copy of the order, judgment, or decree, and it had been entered on the docket in a conventional manner.